

SERVED: February 29, 2000

NTSB Order No. EA-4826

UNITED STATES OF AMERICA
NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D.C.
on the 25th day of February, 2000

Petition of)

LEON A. FILLIS)

for review of the denial by)
the Administrator of the)
Federal Aviation Administration)
of a special issuance certificate.)

Docket SM-4331

OPINION AND ORDER

Petitioner, pro se, has appealed from the written order of Administrative Law Judge William E. Fowler, Jr., issued on January 19, 1999.¹ By that order, the law judge denied the petition, stating that the Board does not have jurisdiction to review a denial by the FAA of a special issuance medical certificate. We deny petitioner's appeal.

On August 25, 1998, the Administrator denied petitioner's

¹A copy of the order is attached. We note that petitioner's filings, which are handwritten and difficult to read, do not identify any specific objections to, or errors in, the law

application for a third-class medical certificate based on petitioner's history and clinical diagnosis of psychosis and coronary artery disease. It appears from the December 29, 1998 letter submitted by petitioner to the NTSB Office of Law Judges, that he asked the law judge for a special issuance certificate.² The law judge seems to have interpreted that letter as an appeal of a denial of a special issuance. Whether or not the letter was misinterpreted, however, has no practical effect.

The decision to grant a special issuance certificate, or refrain from doing so, under 49 C.F.R. § 67.401 (formerly 14 C.F.R. §67.19,) is completely within the Administrator's discretion, not within the Board's purview, and not subject to review by the Board.³ Therefore, if petitioner was, in fact, asking for a special issuance medical certificate, rather than appealing its denial, his request should have been directed to the FAA, not the NTSB.⁴ If he meant to appeal the denial of a third-class medical certificate, his appeal was untimely and unsupported by evidence to indicate that the certificate was denied in error.

(..continued)
judge's order.

²The letter was handwritten and difficult to both read and understand.

³See Petition of Reder, NTSB Order No. EA-4438 (1996); Petition of Doe, 5 NTSB 41 (1985).

⁴It is not clear from the record whether the petitioner has ever actually filed a request with the Administrator for a special issuance. He is, of course, free to do so at any time.

ACCORDINGLY, IT IS ORDERED THAT:

Petitioner's appeal is denied.

HALL, Chairman, HAMMERSCHMIDT, GOGLIA, and BLACK, Members of the Board, concurred in the above opinion and order.